

Federal Communications Commission

WASHINGTON, D.C. 20554

JUN 23 1997

Federal Communications Commission
Office of Secretary

In the Matter of)

Amendment of Section 2.106 of the)
Commission's Rules to Allocate)
Spectrum at 2 GHz for Use by)
the Mobile-Satellite Service)

ET Docket No. 95-18
RM-7927

To: The Commission

COMMENTS OF TRW INC.

TRW Inc. ("TRW"), by counsel and pursuant to Section 1.429 of the Commission's Rules, hereby comments on the Commission's Further Notice of Proposed Rule Making in the above-captioned proceeding. See Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, FCC 97-93 (released March 14, 1997) ("Further Notice"). In the First Report & Order that was part of the same decision as the Further Notice, the Commission allocated to the Mobile-Satellite Service ("MSS") 70 megahertz of spectrum at 1990-2025 MHz and 2165-2200 MHz, effective January 1, 2000. In order to accommodate existing terrestrial service users of a portion of this new MSS spectrum, the Commission also allocated the band 2025-2130 MHz for use by the Broadcast Auxiliary Service ("BAS"), the Cable Television Relay Service, and the Local Television Transmission Service. The

Commission further stated that it would require MSS operators to shoulder the costs of relocating BAS incumbents from the 1990-2025 to the new BAS band at 2025-2130 MHz, including the costs of relocating existing fixed service ("FS") users from the uppermost 20 megahertz of this band, as well as the costs of moving FS incumbents out of the 2165-2200 MHz band, to the extent that sharing of these frequencies between MSS and FS is not possible.^{1/}

In the Further Notice, the Commission seeks public comment on specific proposals for implementing the relocation of the BAS and FS users that are being displaced by the new MSS allocation. In particular, the Commission seeks input concerning the length and terms of voluntary and mandatory negotiation periods between MSS licensees and terrestrial incumbents, as well as the terms upon which the new service provider may involuntarily relocate current licensees after the negotiating periods have expired. With respect to the BAS band at 1990-2025 MHz, the Commission also queries whether new licenses issued in this band after the release of the Further Notice should be subject to a condition that any facilities constructed with notice of the need to relocate be required to move at their own expense. Finally, with respect to both the BAS

^{1/} This aspect of the Commission's First Report & Order is subject to a Petition for Partial Reconsideration filed on May 20, 1997 by the MSS Coalition, composed of Comsat Corporation, ICO Global Communications, Celsat America, Inc., Personal Communications Satellite Corporation, and Hughes Space and Communications International.

and FS bands from which current licensees will be relocated, the Commission seeks comment on its proposal to require MSS operators that are later entrants to the market to compensate early market entrants that have previously paid to relocate terrestrial licensees.

I. INTRODUCTION

TRW has been authorized by the FCC to operate Odyssey™, an MSS system that will operate in the 1610-1626.5 MHz and 2483.5-2500 MHz bands beginning in the year 2001. Recognizing that the emerging global MSS industry would need additional spectrum for future growth and expansion, TRW was among the first parties to petition the Commission to allocate additional spectrum for MSS in the 2 GHz bands.^{2/} At that time, TRW emphasized that these bands represent the only available frequencies suitable for global MSS voice-grade service via hand-held transceivers that are allocated internationally for MSS.

Since the original TRW petition was filed, the demand for global MSS spectrum, and frequencies allocated for international satellite services generally, has continued to grow at a rapid rate. For this reason, the need for the Commission to assure

^{2/} See TRW Petition for Rule Making (filed December 8, 1993). In its Petition, TRW sought the allocation of the bands 1970-2010 MHz and 2160-2200 MHz for MSS use.

that these frequencies can be utilized by the industry within a reasonable time period and on equitable terms remains acute, as does TRW's interest in this proceeding.

II. DISCUSSION

As an initial matter, TRW notes that the Commission's decision to impose upon future MSS licensees the costs of relocating existing terrestrial licensees in the bands, to the extent necessary, is subject to a pending petition for reconsideration.^{3/} Although TRW expresses no view here concerning the merits of that petition, it does note that the Commission's actions here must be informed by the issues implicated in that proceeding. In particular, the Commission must not permit the costs of relocation of U.S. terrestrial users to be borne solely by U.S.-licensed MSS operators. It would clearly be inequitable and injurious to competition in the new MSS service at 2 GHz to create circumstances where only some system operators were charged with the burdensome costs of clearing the spectrum, while others were able to evade this obligation. Accordingly, the Commission must carefully consider whether it has both the authority and the ability to require all potential MSS operators to share equally in the expense of moving existing U.S. users. Clearly, it has the responsibility to do so.

^{3/} See footnote 1, *supra*.

Moreover, the Commission must be mindful that certain aspects of its proposal would necessarily create significant regulatory burdens for the agency itself. Although the Further Notice anticipates that the actual mechanics of negotiating the timing, terms and costs of relocating BAS and FS users will be worked out by the private parties themselves, the Commission has nonetheless included a proposal to require MSS operators that are later entrants to the market “to compensate earlier MSS operators for the costs of relocating incumbent FS licensees.”^{4/} Such a requirement, if imposed, would necessitate significant administration by the Commission to ensure accurate record-keeping. In the first instance, the Commission presumably would need to act as a repository for all of the relocation agreements negotiated between new MSS providers and the terrestrial incumbents. Subsequently, it would need to act as an arbiter for ensuring that new entrants make the appropriate payments to the initial operators that paid initially to clear the spectrum.

Much more problematic, however, is the Commission’s proposal to require an initial MSS system operator that successfully shares spectrum with existing FS users to reimburse a subsequent entrant that would disrupt this sharing solution and require

^{4/} See Further Notice at 34 (¶ 80). An equivalent requirement is proposed for relocation of current BAS licensees. See Further Notice at 31 (¶ 72).

relocation of the terrestrial licensees.^{5/} The Commission should encourage in every way possible the successful coordination of satellite and terrestrial uses, as this will promote efficient spectrum utilization. Accordingly, if an initial MSS operator in the 2 GHz band is able to avoid mutual exclusivity with FS licensees, then it should not later be made to pay to undo such an accommodation to facilitate operation of a new MSS system. Imposing such a requirement would not only create uncertainty for an initial operator, but would affirmatively penalize those that take extra steps to find sharing solutions.

To the extent that reimbursement obligations are ultimately imposed on MSS operators, the Commission should take reasonable steps to limit the scope of the entitlement to "all-expenses-paid" relocation by adopting its proposed "sunset" provision, extinguishing the obligation of MSS operators to relocate incumbents after a ten year period.^{6/} In addition, given the notice provided by this proceeding, TRW believes that it would be appropriate for all new BAS licenses issued after March 14, 1997, the release date of the Further Notice, to be conditioned on the requirement that the licensee itself be fully responsible for any future relocation made necessary by the implementation of MSS.^{7/}

^{5/} See Further Notice at 34 (¶ 80).

^{6/} See Further Notice at 30 & 33 (¶¶ 70 & 77).

^{7/} See Further Notice at 31 (¶ 71).

On these and a variety of other issues, including the timing and format of possible negotiations between future MSS licensees and current terrestrial spectrum users, TRW's views will necessarily be influenced by proposals that may be advanced by other parties. Because of the variety of interests at stake, it seems likely that the initial comments will raise additional issues that may not have been anticipated in the Further Notice. TRW will, of course, address such matters in Reply Comments to the extent necessary. However, given the current posture of satellite licensing in these bands, it may be appropriate for the Commission to withhold any action on specific procedures until applications have been filed seeking MSS use of the 2 GHz band and specific service rules are being considered. The means by which these future licensees will gain access to the frequencies on which they will be authorized to operate seem ideally suited to consideration at the same time that operational requirements are established.

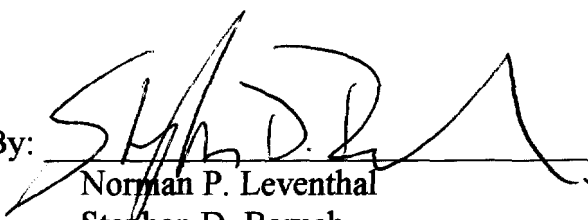
III. CONCLUSION

For the foregoing reasons, TRW urges the Commission to proceed with special care in addressing the issues it has raised in the Further Notice, and moving toward the adoption of rules and policies to govern the transition of the 2 GHz bands from predominantly terrestrial use to predominantly satellite use. The final regulations adopted must be crafted to ensure that the burdens of opening this band to new

technology are equitably distributed among all those that will benefit from the availability of the 1990-2025 MHz and 2165-2200 MHz bands for MSS system use. Such an approach is the only means of assuring that the public interest benefits anticipated by the Commission in allocating spectrum for MSS at 2 GHz are actually realized.

Respectfully submitted,

TRW Inc.

By: 
Norman P. Leventhal
Stephen D. Baruch
David S. Keir

Leventhal, Senter & Lerman P.L.L.C.
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006
(202) 429-8970

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Its Attorneys